

Senate Study Bill 1070

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
MANAGEMENT BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the taxation of utilities, including
2 establishment of a natural gas delivery tax rate for new
3 electric power generating plants, establishment of a
4 replacement transmission tax for certain municipal utilities,
5 methods of allocation of replacement generation tax incurred
6 by certain new stand-alone electric power generating plants, a
7 formula for determining taxable value for property generating
8 replacement tax annually, extending the task force, and
9 providing for applicability.
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
11 TLSB 1215DP 80
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1 1 Section 1. Section 426B.2, subsections 1 and 3, Code 2003,
1 2 are amended to read as follows:

1 3 1. The moneys in the property tax relief fund available to
1 4 counties for a fiscal year shall be distributed as provided in
1 5 this section. A county's proportion of the moneys shall be
1 6 equivalent to the sum of the following three factors:

1 7 a. One-third based upon the county's proportion of the
1 8 state's general population.

1 9 b. One-third based upon the county's proportion of the
1 10 state's total taxable property valuation assessed for taxes
1 11 payable in the previous fiscal year.

1 12 c. One-third based upon the county's proportion of all
1 13 counties' base year expenditures, as defined in section
1 14 331.438.

1 15 Moneys provided to a county for property tax relief in a
1 16 fiscal year, excluding replacement taxes in the property tax
1 17 relief fund, in accordance with this subsection shall not be
1 18 less than the amount provided for property tax relief in the
1 19 previous fiscal year.

1 20 3. The director of human services shall draw warrants on
1 21 the property tax relief fund, payable to the county treasurer
1 22 in the amount due to a county in accordance with subsection 1
1 23 and mail the warrants to the county auditors in July and
1 24 January of each year. Any replacement generation tax in the
1 25 property tax relief fund as of November 1 shall be paid to the
1 26 county treasurers in July and January of the fiscal year
1 27 beginning the following July 1.

1 28 Sec. 2. Section 437A.3, subsection 10, Code 2003, is
1 29 amended by adding the following new unnumbered paragraph:
1 30 NEW UNNUMBERED PARAGRAPH. "New electric power generating
1 31 plant" means an electric power generating plant that is owned
1 32 by or leased to an electric company, electric cooperative, or
1 33 municipal utility, and that initially generates electricity
1 34 subject to replacement generation tax under section 437A.6 on
1 35 or after January 1, 2003.

2 1 Sec. 3. Section 437A.3, subsection 13, Code 2003, is
2 2 amended by adding the following new unnumbered paragraph:
2 3 NEW UNNUMBERED PARAGRAPH. "Local amount" for the purposes
2 4 of determining the local taxable value for a new electric
2 5 power generating plant shall annually be determined to be
2 6 equal up to the first forty-four million four hundred forty=
2 7 four thousand four hundred forty-five dollars of the taxable
2 8 value of the new electric power generating plant. "Local
2 9 amount" for the purposes of determining the local assessed
2 10 value for a new electric power generating plant shall be
2 11 annually determined to be the percentage share of the taxable
2 12 value of the new electric power generating plant allocated as
2 13 the local amount multiplied by the total assessed value of the
2 14 new electric power generating plant.

2 15 Sec. 4. Section 437A.3, Code 2003, is amended by adding
2 16 the following new subsection:

2 17 NEW SUBSECTION. 27A. "Taxable value" means as defined in
2 18 section 437A.19, subsection 2, paragraph "f".

2 19 Sec. 5. Section 437A.5, subsection 1, Code 2003, is
2 20 amended by adding the following new paragraph:

2 21 NEW PARAGRAPH. c. Notwithstanding paragraphs "a" and "b",
2 22 a natural gas delivery rate of one and eleven-hundredths of a
2 23 cent (.0111) per therm of natural gas is imposed on all
2 24 natural gas delivered to or consumed by a new electric power
2 25 generating plant for purposes of generating electricity within
2 26 the state during the tax year. However, if a new electric
2 27 power generating plant is exempt from a replacement generation
2 28 tax pursuant to section 437A.6, subsection 1, paragraph "b",
2 29 the natural gas delivery rate for the municipal service area
2 30 that the new plant serves shall instead apply for deliveries
2 31 of natural gas by the municipal gas utility.

2 32 The provisions of section 437A.5, subsection 8, shall not
2 33 apply to the therms of natural gas subject to the delivery tax
2 34 set forth in this paragraph.

2 35 Sec. 6. Section 437A.5, subsection 6, Code 2003, is
3 1 amended to read as follows:

3 2 6. Notwithstanding subsection 1, the natural gas delivery
3 3 tax rate applied to therms of natural gas delivered by a
3 4 taxpayer to utility property and facilities ~~which that~~ are
3 5 placed in service on or after January 1, 1999, and ~~which that~~
3 6 are owned by or leased to and initially served by such
3 7 taxpayer shall be the natural gas delivery tax rate in effect
3 8 for the natural gas competitive service area principally
3 9 served by such utility property and facilities even though
3 10 such utility property and facilities may be physically located
3 11 in another natural gas competitive service area.

3 12 This subsection shall not apply to natural gas delivered to
3 13 or consumed by new electric power generating plants.

3 14 Sec. 7. Section 437A.7, Code 2003, is amended by adding
3 15 the following new subsection:

3 16 NEW SUBSECTION. 1A. In lieu of the replacement
3 17 transmission tax imposed in subsection 1, a municipal utility
3 18 whose replacement transmission tax liability for the tax year
3 19 1999 was limited to the tax imposed by this section and whose
3 20 anticipated tax revenues from a taxpayer, as defined in
3 21 section 437A.15, subsection 4, for the tax year 1999, exceeded
3 22 its replacement transmission tax by more than one hundred
3 23 thousand dollars shall be subject to replacement transmission
3 24 tax on all transmission lines owned by or leased to the
3 25 municipal utility as of the last day of the tax year 2000 as
3 26 follows:

3 27 a. Three thousand twenty-five dollars per pole mile of
3 28 transmission line owned or leased by the taxpayer not
3 29 exceeding one hundred kilovolts.

3 30 b. Seven thousand dollars per pole mile of transmission
3 31 line owned or leased by the taxpayer greater than one hundred
3 32 fifty kilovolts but not exceeding three hundred kilovolts.

3 33 Sec. 8. Section 437A.8, subsection 4, Code 2003, is
3 34 amended by adding the following new paragraph:

3 35 NEW PARAGRAPH. d. Notwithstanding paragraph "a", a
4 1 taxpayer who owns or leases a new electric power generating
4 2 plant and who has no other operating property in the state of
4 3 Iowa except for operating property directly serving the new
4 4 electric power generating plant as described in section
4 5 437A.16, shall pay the replacement generation tax associated
4 6 with the allocation of the local amount to the county
4 7 treasurer of the county in which the local amount is located
4 8 and shall remit the remaining replacement generation tax, if
4 9 any, to the director according to paragraph "a" for remittance
4 10 of the tax to county treasurers. The director shall notify
4 11 each taxpayer on or before August 31 following a tax year of
4 12 its remaining replacement generation tax to be remitted to the
4 13 director. All remaining replacement generation tax revenues
4 14 received by the director shall be deposited in the property
4 15 tax relief fund created in section 426B.1, and shall be
4 16 distributed as provided in section 426B.2.

4 17 Sec. 9. Section 437A.15, subsection 3, paragraph a, Code
4 18 2003, is amended to read as follows:

4 19 a. All replacement taxes owed by a taxpayer shall be
4 20 allocated among the local taxing districts in which such
4 21 taxpayer's property is located in accordance with a general
4 22 allocation formula determined by the department of management
4 23 on the basis of general property tax equivalents. General
4 24 property tax equivalents shall be determined by applying the
4 25 levy rates reported by each local taxing district to the
4 26 department of management on or before June 30 following a tax
4 27 year to the ~~assessed~~ taxable value of taxpayer property

4 28 allocated to each such local taxing district as adjusted and
4 29 reported to the department of management in such tax year by
4 30 the director pursuant to section 437A.19, subsection 2. The
4 31 general allocation formula for a tax year shall allocate to
4 32 each local taxing district that portion of the replacement
4 33 taxes owed by each taxpayer which bears the same ratio as such
4 34 taxpayer's general property tax equivalents for each local
4 35 taxing district bears to such taxpayer's total general
5 1 property tax equivalents for all local taxing districts in
5 2 Iowa.

5 3 When allocating natural gas delivery taxes on deliveries of
5 4 natural gas to a new electric power generating plant, ten
5 5 percent of those natural gas delivery taxes shall be allocated
5 6 over new gas property built to directly serve the new electric
5 7 power generating plant and ninety percent of those natural gas
5 8 delivery taxes shall be allocated to the general property tax
5 9 equivalents of all gas property within the natural gas
5 10 competitive service area or areas where the new gas property
5 11 is located.

5 12 Sec. 10. Section 437A.15, subsection 3, Code 2003, is
5 13 amended by adding the following new paragraph:

5 14 NEW PARAGRAPH. f. Notwithstanding the provisions of this
5 15 section, if a taxpayer is a municipal utility or a municipal
5 16 owner of an electric power facility financed under the
5 17 provisions of chapter 28F or 476A, the assessed value, other
5 18 than the local amount, of a new electric power generating
5 19 plant shall be allocated to each taxing district in which the
5 20 municipal utility or municipal owner is serving customers and
5 21 has electric meters in operation in the ratio that the number
5 22 of operating electric meters of the municipal utility or
5 23 municipal owner located in the taxing district bears to the
5 24 total number of operating electric meters of the municipal
5 25 utility or municipal owner in the state as of January 1 of the
5 26 tax year. If the municipal utility or municipal owner of an
5 27 electric power facility financed under the provisions of
5 28 chapter 28F or 476A has a new electric power generating plant
5 29 but the municipal utility or municipal owner has no operating
5 30 electric meters in this state, the municipal utility or
5 31 municipal owner shall pay the replacement generation tax
5 32 associated with the new electric power generating plant
5 33 allocation of the local amount to the county treasurer of the
5 34 county in which the local amount is located and shall remit
5 35 the remaining replacement generation tax, if any, to the
6 1 director at the times contained in section 437A.8, subsection
6 2 4, for remittance of the tax to the county treasurers. All
6 3 remaining replacement generation tax revenues received by the
6 4 director shall be deposited in the property tax relief fund
6 5 created in section 426B.1, and shall be distributed as
6 6 provided in section 426B.2.

6 7 Sec. 11. Section 437A.15, subsection 7, Code 2003, is
6 8 amended to read as follows:

6 9 ~~7. On or before July 1, 1998, the~~ The department of
6 10 management, in consultation with the department of revenue and
6 11 finance, shall ~~initiate and~~ coordinate the ~~establishment of a~~
6 12 ~~utility replacement tax~~ task force and provide staffing
6 13 assistance to the task force. It is the intent of the general
6 14 assembly that the task force include representatives of the
6 15 department of management, department of revenue and finance,
6 16 electric companies, natural gas companies, municipal
6 17 utilities, electric cooperatives, counties, cities, school
6 18 boards, and industrial, commercial, and residential consumers,
6 19 and other appropriate stakeholders.

6 20 The task force shall study the effects of the replacement
6 21 tax on local taxing authorities, local taxing districts,
6 22 consumers, and taxpayers and the department of management
6 23 shall report to the general assembly by January 1 of each year
6 24 through January 1, ~~2003~~ 2005, the results of the study and the
6 25 specific recommendations of the task force for modifications
6 26 to the replacement tax, if any, which will further the
6 27 purposes of tax neutrality for local taxing authorities, local
6 28 taxing districts, taxpayers, and consumers, consistent with
6 29 the stated purposes of this chapter. The department of
6 30 management shall also report to the legislative council by
6 31 November 15 of each year through ~~2002~~ 2004, the status of the
6 32 task force study and any recommendations.

6 33 Sec. 12. Section 437A.19, subsection 2, paragraph f, Code
6 34 2003, is amended to read as follows:

6 35 f. In the event the base year assessed value of taxpayer
7 1 property is adjusted as a result of taxpayer appeals, reduce
7 2 the assessed value of taxpayer property in each local taxing
7 3 district to reflect such adjustment. The adjustment shall be

7 4 allocated in proportion to the allocation of the taxpayer's
7 5 assessed value among the local taxing districts determined
7 6 without regard to this adjustment. ~~If an An adjustment to the~~
7 7 ~~base year assessed value of taxpayer property is finally~~
~~7 8 determined on or before September 30, 1999, it shall be~~
~~7 9 reflected in the January 1, 1999, assessed value. Otherwise,~~
~~7 10 any such adjustment shall be made as of January 1 of the year~~
7 11 following the date on which the adjustment is finally
7 12 determined.

7 13 In no event shall the adjustments set forth in this
7 14 subsection reduce the assessed value of taxpayer property in
7 15 any local taxing district below zero.

~~7 16 The director, on or before October 31, 1999, in the case of~~
~~7 17 January 1, 1999, assessed values, and on or before August 31~~
7 18 of each subsequent assessment year, shall report to the
7 19 department of management and to the auditor of each county the
7 20 adjusted assessed value of taxpayer property as of January 1
7 21 of such assessment year for each local taxing district,
~~7 22 provided that for a taxpayer whose base year as defined in~~
~~7 23 section 437A.3, subsection 1, changed from 1997 to 1998, the~~
~~7 24 director shall, before May 1, 2000, report to the department~~
~~7 25 of management and to the auditor of each county, the assessed~~
~~7 26 values as of January 1, 1999. For purposes of this~~

7 27 subsection, the assessed value of taxpayer property in each
7 28 local taxing district subject to adjustment under this section
7 29 by the director means the assessed value of such property as
7 30 of the preceding January 1 as determined and allocated among
7 31 the local taxing districts by the director.

7 32 Nothing in this chapter shall be interpreted to authorize
7 33 local taxing authorities to exclude from the calculation of
7 34 levy rates the ~~adjusted assessed taxable~~ value of taxpayer
7 35 property reported to county auditors pursuant to this
8 1 subsection.

8 2 In addition to reporting the assessed values as described
8 3 in this subsection, the director, on or before October 31,
8 4 2003, in the case of January 1, 2003, values, and on or before
8 5 August 31 of each subsequent assessment year, shall also
8 6 report to the department of management and to the auditor of
8 7 each county the taxable value of taxpayer property as of
8 8 January 1 of such assessment year for each local taxing
8 9 district. For purposes of this chapter, "taxable value" means
8 10 the value for all property subject to the replacement tax
8 11 annually determined by the director, by dividing the estimated
8 12 annual replacement tax liability for that property by the
8 13 prior year's consolidated taxing district rate for the taxing
8 14 district where that property is located, then multiplying the
8 15 quotient by one thousand. The prior year's replacement tax
8 16 amounts for that property shall be used to estimate the
8 17 current tax year's taxable value for that property. If
8 18 property not subject to any threshold recalculation is
8 19 generating replacement tax for the first time, or if a
8 20 taxpayer's replacement tax will not be changed by any
8 21 threshold recalculation and the taxpayer believes that the
8 22 replacement tax will vary more than ten percent from the
8 23 previous tax year, the taxpayer shall report to the director
8 24 by July 15 of the current calendar year, on forms prescribed
8 25 by the director, the estimated replacement tax liability that
8 26 will be attributable to that property for the current tax
8 27 year. For the purposes of computing the taxable value of
8 28 property in a taxing district, the taxing district's share of
8 29 the estimated replacement tax liability shall be the taxing
8 30 district's percentage share of the "assessed value allocated
8 31 by property tax equivalent" multiplied by the total estimated
8 32 replacement tax. "Assessed value allocated by property tax
8 33 equivalent" shall be determined by dividing the taxpayer's
8 34 current year assessed valuation in a taxing district by one
8 35 thousand, and then multiplying by the prior year's
9 1 consolidated tax rate.

9 2 Sec. 13. RETROACTIVE APPLICABILITY. This bill applies
9 3 retroactively to tax years beginning on or after January 1,
9 4 2003.

9 5 EXPLANATION

9 6 This bill amends various provisions of Code chapter 437A,
9 7 relating to the replacement generation tax on persons
9 8 generating electricity, and related provisions in Code section
9 9 426B.2. The bill also makes conforming amendments to various
9 10 replacement generation tax provisions relating to new electric
9 11 power generating plants to be built in the state of Iowa and
9 12 the allocation of replacement generation taxes for stand-alone
9 13 new electric power generating plants, the natural gas delivery
9 14 tax attributable to the natural gas deliveries to those

9 15 plants, and the allocation of the natural gas delivery tax
9 16 attributable to those plants.

9 17 The bill adds a definition for "new electric power
9 18 generating plant" in Code section 437A.3, and adds additional
9 19 definitional material for "local amount" by providing that the
9 20 local amount of a new electric power generating plant, for
9 21 purposes of determining the local taxable value of the plant,
9 22 shall annually be determined to be equal up to the first
9 23 \$44,444,445 of taxable value of the new plant. This provision
9 24 fixes the taxable value at this amount for new plants on a
9 25 yearly basis regardless of depreciation.

9 26 The bill establishes in Code section 437A.5 a new statewide
9 27 natural gas delivery rate of one and eleven-hundredths of a
9 28 cent (.0111) per therm of natural gas delivered to or consumed
9 29 by new electric power generating plants. If the new plant is
9 30 owned by or leased to a municipal utility that is exempt from
9 31 replacement generation tax pursuant to Code section 437A.6,
9 32 however, the rate for the municipal service area instead
9 33 applies. The bill also provides that the natural gas
9 34 delivered to new electric power generating plants is not
9 35 subject to the threshold recalculation for certain increases
10 1 and decreases in total taxable therms of natural gas under
10 2 Code section 437A.5, subsection 8.

10 3 The bill provides, in Code section 437A.7, a replacement
10 4 transmission tax at increased rates on a municipal utility
10 5 whose anticipated tax revenue exceeded its replacement
10 6 transmission tax by more than \$100,000 for tax year 1999. If
10 7 such a utility acquires transmission lines in 2001 or
10 8 thereafter, those lines will be subject to tax at the rates in
10 9 Code section 437A.7, subsection 1, paragraphs "a" through "d".

10 10 The bill adds a new paragraph to Code section 437A.8,
10 11 subsection 4, to provide for the remission of replacement
10 12 generation tax in cases of certain new electric power
10 13 generating plants. The bill provides a method for allocation
10 14 of replacement generation tax incurred by a stand-alone new
10 15 electric power generating plant whereby the tax attributed to
10 16 the local amount as defined in Code section 437A.3, subsection
10 17 13, is paid to the county treasurer and the remaining tax, if
10 18 any, is paid to the director who deposits the tax receipts
10 19 into the property tax relief fund created in Code section
10 20 426B.1 for distribution as provided in Code section 426B.2.
10 21 This provision is applicable even if the taxpayer has other
10 22 Iowa operating property as long as the taxpayer's other Iowa
10 23 operating property is limited to operating property directly
10 24 serving the new electric power generating plant. The
10 25 replacement generation tax is placed in the property tax
10 26 relief fund for distribution, along with other state moneys,
10 27 to counties to reimburse the counties for their qualified
10 28 mental health, mental retardation, and developmental
10 29 disabilities services expenditures.

10 30 The bill provides in Code section 426B.2 that in
10 31 determining whether property tax relief fund moneys provided
10 32 to a county are more or less than in the previous fiscal year,
10 33 replacement taxes shall not be considered in such
10 34 determination. The bill also amends Code section 426B.2,
11 35 subsection 3, to provide that all replacement tax receipts in
11 1 the property tax relief fund as of November 1 of the calendar
11 2 year immediately preceding the following fiscal year shall be
11 3 paid to the county treasurers in July and January of each
11 4 year.

11 5 The bill provides in Code section 437A.15, subsection 3,
11 6 for the allocation of gas delivery taxes on deliveries of
11 7 natural gas to a new electric power generating plant. Ten
11 8 percent of the natural gas delivery taxes shall be allocated
11 9 over new gas properties built to directly serve the new plant
11 10 and the remaining 90 percent shall be allocated to the general
11 11 property tax equivalents of all gas property within the
11 12 natural gas competitive service area or areas where the new
11 13 gas property is located.

11 14 The bill adds a new paragraph to Code section 437A.15,
11 15 subsection 3, pertaining to the assessed value of a new
11 16 electric power generating plant owned by a municipal utility
11 17 or municipal owner. The bill provides a method of allocation
11 18 of replacement generation tax incurred by stand-alone electric
11 19 power generating plants of municipal utilities and municipal
11 20 owners who have an electric power facility financed under Code
11 21 chapter 28F or 476A and provides a method of allocation of
11 22 replacement generation tax on the basis of operating electric
11 23 meters with respect to other municipal utilities and municipal
11 24 owners who have an electric power facility financed under Code
11 25 chapter 28F or 476A.

11 26 The bill adds a new paragraph to Code section 437A.19 to
11 27 adjust annually the assessed value for all gas and electric
11 28 utility property by determining a taxable value of such
11 29 property on an annual basis, in order to bring the general
11 30 property tax equivalent for properties subject to the
11 31 replacement tax more in balance with the actual replacement
11 32 tax generated by those properties. The new paragraph provides
11 33 a formula to determine the taxable value for property
11 34 generating a replacement tax on an annual basis and a method
11 35 for determining such value if the property is generating tax
12 1 for the first time. The bill also includes definitions for
12 2 "taxable value" and certain terms used only in Code section
12 3 437A.19. A new subsection is also added to the definitions in
12 4 437A.3 for "taxable value" to refer to the definition in
12 5 437A.19, since that term applies to all of Code chapter 437A.
12 6 The bill also extends the utility replacement tax task
12 7 force by two years, by requiring that it report its activities
12 8 to the general assembly by January 1 of each year through
12 9 January 1, 2005.
12 10 The bill applies retroactively to tax years beginning on or
12 11 after January 1, 2003.
12 12 LSB 1215DP 80
12 13 jj/cl/14.1